IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5442 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ALEMBIC GLASS INDUSTRIES LTD

Versus

ALEMBICS GLASS KARMCHARI UNION

Appearance:

MR KS NANAVATI for Petitioner

MR AK CLERK for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 14/03/2000

ORAL JUDGEMENT

The petitioner challenges the award made by the

Industrial Tribunal in Reference (IT) No. 258 of 1979 on 9.9.1983, accepting certain demands of the respondent Union for revision of wages.

2. The industrial dispute between the workmen employed by the petitioner and the petitioner company was referred for adjudication to the Tribunal on 30.6.1979 in respect of the charter of demands at Annexures "A", "B" and "C" appended to the reference. The petitioner Messrs Alembic Glass Industries Ltd. was a Public Limited Company and was manufacturing and selling pressed and hollow glass containers, phials, bottles etc. having two factories at Baroda and one at Bangalore. It employed about 2398 workmen, out of whom 2190 were operatives and about 208 were members of staff. Originally, the petitioner was a part of Alembic Chemicals Works Company Limited (hereinafter referred to as Alembic Chemicals). The previous award in respect of demands of the petitioner workmen was made by the Industrial Tribunal (Mr.Justice M.U.Shah), as published in the gazette on 15.4.1976. The present joint reference was made by an agreement between the parties, providing interim relief to the workmen with effect from 1.4.1979, which was to be adjusted as per the final outcome of the reference.

3. The Tribunal, after examining the financial capacity of the petitioner and keeping in view the principles laid down for the purpose of arriving at fair wages, made an award more or less on the same lines as it had done in respect of the petitioners' sister concern Alembic Chemicals, by holding that that was a comparable industry and that there was no other industry which was doing the same business as that of the petitioner. The Tribunal directed the basic pay-scales of different groups of workmen to be revised as stated in the table included in paragraph 12 of its award. As regards the daily wages given to the workmen of Group-I in the existing pay-scale of Rs. 1.50 p. _ 2.90 p., the pay-scale awarded was Rs. 2.88 p. _ 6.13 p. with annual increments as mentioned in the scale. Similarly, the existing pay-scale of daily wages of the workmen of Group-II of Rs. 1.65 p. _ 3.05 p. was revised to Rs. 3.15 p. _ 7.15 p. with annual increments as mentioned in the scale. The daily wages given to the workmen of Group-III in the existing pay-scale of Rs. 1.95 p. _ 3.71 p. was revised to Rs. 3.46 p. _ 8.26 p. with annual increments as mentioned in the scale. Likewise, the daily wages given to the workmen of Group-IV in the existing pay-scale of Rs. 2.25 p. _ 4.40 p. were revised to Rs. 3.85 p. _ 9.45 p. with annual increments as mentioned in the scale. The daily wages

given to the workmen of Group-V in the existing pay-scale of Rs. 2.70 p. _ 5.70 p. were revised to Rs. 3.85 p. _ 10.53 p. with annual increments as mentioned in the scale. The daily wages given to the workmen of Group-VI in the existing pay-scale of Rs. 3.25 p. _ 7.00 p. were raised to Rs. 4.61 p. _ 13.97 p. with annual increments as mentioned in the scale. The daily wages given to the workmen of Group-VII in the existing pay-scale of Rs. 4.00 p. _ 8.65 p., were raised to Rs. 6.73 p. _ 20.65 p. with annual increments as mentioned in the scale. As regards the monthly rated workmen for category of Junior Clerks, the existing pay-scale of Rs. 75 - 350 (increments and EB in between) was revised to Rs. 130 _ 357 (with increments and EB in between); for category of Senior Clerks, the existing pay-scale of Rs. 155-425 (increments and EB in between) was revised to Rs. 210 _ 535 (with increments and EB in between); for category of Assistants, the existing pay-scale of Rs. 210 - 625 (increments and EB in between) was revised to Rs. 275 _ 735 (with increments and EB in between); for category of Senior Assistants, the existing pay-scale of Rs. 380 _ 800 (increments and EB in between) was revised to Rs. 435 _ 930 (with increments and EB in between); for category of Junior Stenographers, the existing pay-scale of Rs. 130 _ 420 (increments and EB in between) was revised to Rs. 185 _ 535 (with increments and EB in between); for category of Senior Stenographers, the existing pay-scale of Rs. 130 _ 420 (increments and EB in between) was revised to Rs. 205 - 600 (with increments and EB in between); for category of Non-graduate Supervisors/Lab. Technicians the existing pay-scale of Rs. 75 - 365 (increments and EB in between) was revised to Rs. 140 - 379 (with increments and EB in between); for category of Senior Supervisors, the existing pay-scale of Rs. 155 - 500 (increments and EB in between) was revised to Rs. 210 - 610 (with increments and EB in between); for category of Engineers (Diploma holders) the existing pay-scale of Rs. 175-625 (increments and EB in between) was revised to Rs. 230 735 (with increments and EB in between); for category of Engineers (Degree holders) , the existing pay-scale of Rs. 280 - 880 (increments and EB in between) was revised to Rs. 335 - 930 (with increments and EB in between); and for category of Chemists (Graduate Supervisor) , the existing pay-scale of Rs. 150 - 600 (increments and EB in between) was revised to Rs. 205 - 720 (with increments and EB in between). The employees' Union had claimed retrospective effect to this revision from 1.5.1978, but the Tribunal having regard to the financial position of the petitioner, held that retrospective effect cannot be given to the demand as prayed for by the

Union and effect was given to the increase from 1.1.1979. The Tribunal also gave directions for making wage fixation in the new scales and for implementing the revised pay-scales. As regards the demand No.3, it was noted that settlement was arrived at between the parties on 21.4.80 and therefore, that demand which related to dearness allowance did not survive. Demand No.4 and demand No.21 related to high cost allowance and it was awarded at the rates varying between Rs. 5 per month to Rs. 60 per month according to the basic pay. As regards the dearness allowance covered by demand No. C/21, it was directed that it should be given to the monthly rated staff members for the same number of days as it was given to the daily rated operatives, with effect from 1.1.1979. The demands Nos. A/5 and C/7 related to house rent allowance and housing. For this purpose, the workmen were classified in three group. Group-I consisted of persons having total emoluments upto Rs. 650/- per month, Group-II consisted of persons having total emoluments above Rs. 650/- but below Rs. 1,000/per month and Group-III being of those whose emoluments were more than Rs. 1000 per month. These three groups were awarded house rent allowance ranging from Rs. 15 to Rs. 65 per month, with effect from 1.1.80 in a phased manner. The demands for conveyance allowance, medical benefits, free of charge crockery, attendance allowance, shift allowance, milk and tonic pills, scooter loan, machine allowance, fire fighting allowance, payment of over-time, shift allowance for classifying elevator operators at crushing plant as group IV skilled and similar other demands for upgrading the workmen of various categories were all rejected. Some sundry demands were allowed to certain extent as held in the award.

4. The learned Counsel appearing for the petitioner contended that though the Tribunal came to the conclusion that the petitioners financial condition was not good, it had awarded upward revision of wages in contravention of the principles laid down by the Apex Court for wage revision. It was contended that when fair wages were to be given, the financial capacity of the industry was the only important consideration and once the financial condition was found to be not good, then the wage revision should automatically be denied. It was further argued that the Tribunal had committed an error by comparing the wage structure of the petitioner company with the wage structure of Alembic Chemicals. It was contended that the Tribunal had not properly appreciated the industry-cum-region principle, which is required to be applied in such cases. In support of his contentions, the learned Counsel relied upon the following decisions

of the Hon'ble Supreme Court:-

1. Workmen of Gujarat Electricity Board, Baroda Vs. Gujarat Electricity Board, reported in 1969 II LLJ 791, was referred to for its proposition that the concerns would be comparable only if nature of undertaking is the same and financial position of such concerns is similar. In that case, the Supreme Court held that even in applying the principle of industry-cum-region, the award was not rendered invalid as the plea of the workers that their demand was to bring the wages upto the minimum wage level was not proved. On the question of capacity of the Board to pay, the Supreme Court noted that there was a clear finding by the Tribunal that the Board was running at heavy losses, so that it was not in a position to meet the extra expenditure of Rs. 49 lakhs in a year, which would be involved if the DA was fixed as claimed by the Union.

2. Workmen of Shri Bajrang Jute Mills Ltd. Vs. The Employers of Shri Bajrang Jute Mills Ltd., reported in 1970 II LLJ 6, was referred to for its proposition that capacity to pay was a pre-requisite condition to be determined for the purpose of wage revision. In that decision, it was held that, in clubbing various units including much bigger mills of the jute industry together and thereafter fixing wage scales uniformly in its recommendations, the Wage Board failed to keep in mind the principle that to compare wage scales comparable establishments in the region should be taken into account and that a small struggling concern should not be compared with a large flourishing one.

3. Express Newspapers (Private) Ltd. & anr. Vs. Union of India, reported in 1961 I LLJ 339 was read to indicate the principles of fixation of rates of wages as per which the capacity of the industry to pay was one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer was bound to pay the same irrespective of its capacity. It was laid down in that judgement that the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organisation so that the industry could pay

higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the product -- no doubt against the ultimate background that the burden of the increased rate should not be such as to drive the employer out of business.

4. Sangam Press Limited Vs. The Workmen, reported in 1975 II LLJ 125 was referred to for showing that it was a settled legal position that while the capacity to pay is irrelevant in the case of minimum wages, in the case of fair wages, besides, the principle of industry-cum-region, the company's capacity to bear the financial burden must receive due consideration. The Supreme Court held that the past performance of the company and the future prospects with a totality of the picture must be kept in mind by the adjudicator.

5. DCM Chemical Works Vs. Its workmen, reported in 1962 I LLJ 388 was cited to show that the Supreme Court had held that it would not be right to compel the employer to bear the burden of an increased fair-wage, if it would create a situation where business may have to be closed by the concern which would be more detrimental to the workmen. Applying the tests laid down in the decided cases to the case before the Supreme Court, it was held that the chemical unit run by the company must be held to be a separate and distinct unit from its other units engaged in the manufacture of textiles and sugar for the purpose of determining the financial capacity for fixing wage structure, dearness allowance and bonus for the workmen employed in it. It was held that there was nothing common carried out by the company and that there could be no question of one unit depending upon the other. It was also held that there was no functional integrality generally speaking between the three lines of businesses namely of manufacture of sugar, textiles and chemicals carried on in different units of the company.

6. Tata Chemicals Ltd. Vs. The Workmen employed under Tata Chemicals Ltd., reported in 1978 LAB I.C 637 was cited for its proposition that where there are no comparable concerns engaged in

similar industry in the region, it was permissible for the Industrial Tribunal or Court to look to such similar industries or industries as nearly similar as possible in adjoining or other region in the State having similar economic conditions.

7. Reliance was also placed on the decision of this Court in C.U Shah Arogya Bharti Vs. SAU Maj. Sangh, reported in 39(1) GLR 374, in support of the argument canvassed on behalf of the petitioner that the events subsequent to the award could be taken into account for adjudging the financial capacity of the company and that the matter should be remanded as was done in that case with a direction to decide the dispute afresh. When this decision was cited, the learned Counsel for the respondent submitted that the learned Single Judge could not have decided that petition because under Rule 2, Clause 12 of the Gujarat High Court Rules, 1993, only applications under Art. 227 of the Constitution, except those arising from the decision under the Industrial Disputes Act concerning revision of wages or wage structure of class or classes of employees in an industry, could be decided by a Single Judge of the High Court. No such contention seems to have been raised before the learned Single Judge. Even apart from this aspect, the reasoning adopted by the learned Single Judge can always be looked into, for its persuasive value, by the Division Bench because there would even otherwise be no question of the decision of a learned Single Judge being binding on a Division Bench. The learned Single Judge has in great details referred to the principles laid down in various decisions of the Supreme Court culling out their ratio on various aspects of wage revision. It was held by His Lordship that financial capacity of the employer plays a very important role and is required to be taken into consideration for fixing the wage structure or for the revision thereof.

5. The learned Counsel appearing for the respondent Union supported the award and submitted that the Tribunal had considered the financial capacity of the petitioner in its proper perspective, while making the award. He submitted that, historically, the workmen of the petitioner were compared with those of Alembic Chemicals since, admittedly, there was no other comparable concern

in Gujarat. He submitted that even the petitioner did not come out with any suggestion that there should be comparison made with any similar industry operating in any other region and having similar economic conditions. Referring to the chart which was produced and is mentioned in the award itself, it was pointed out that the volume of business of the petitioner had increased over a period of time; that profit after payment of taxes was also seen in all the years though it was less in the year 1982; that dividend was consistently paid except in year 1982; that bonus shares were issued and that the dividend was paid even after the issuance of the bonus share at the rate of 10 per cent. He pointed out that in the past, at the time of the revision of wages of workmen of Alembic Chemicals, the workmen of the petitioner were in fact getting higher wages in some aspects. The learned Counsel for the respondent workmen placed reliance on the following decisions:-

1. Workmen of Orient Paper Mills Ltd. Vs. Orient Paper Mills, reported in AIR 1969 S.C 976 at page 980 was cited to point out that where there was no identical industry in the region comparable with the company, the Supreme Court held that it would be more appropriate to compare the total wage packet of the company with the wage packet received by the workmen of other industries in the region.

2. Workmen of New Egerton Woollen Mills Vs. New Egerton Woollen Mills - 1969 II LLJ 782 was cited to indicate two principal factors which must weigh while fixing or revising the wage scales and grades, namely, - how the wages prevailing in the establishment in question compare with those given to the workmen of similar grade and scale by similar establishments in other industries in the region and what wage-scales, the establishment in question can pay without any undue strain on its financial resources. It was held that for ascertaining whether there are comparable concerns in the same industry in the region, the extent of business, the capital investment, profits, nature of business, the standing, the strength of labour force, the reserves, if any, the dividends paid, the future prospects of the business of concerns put forward before it as comparable and other relevant facts have to be examined. Where there are no such comparable concerns in the same industry in the region, the Tribunal can look into concerns in

other industry in the region for comparison, but in that case such concerns should be as similar as possible and not disproportionately large or absolutely dissimilar.

6. If fair wage is a mean between living wage and the minimum wage, it always would be relevant to know the figures of minimum wage at a given point of time to ascertain how much upward the revision ought to be made, having regard to the capacity of the industry to pay. Minimum wage is the lower limit of the fair wage while its upper limit would be set by what has been called in Express Newspaper's case (supra) the capacity of the industry to pay. For judging such capacity, the foremost thing would be to ascertain the current economic position of the particular industry and this coupled with the further prospects and past performance would give an overall view of the impact that the extent of proposed rise in wages will have on its health.

6.1 The relevant criterion for determining the capacity should be the capacity of a particular industry in a specified region and as far as possible same wages would be prescribed to all comparable industries in that region. However, when there is no industry comparable to that particular industry, then the wages prevalent in that region of any industry of comparable size may be taken into consideration for deciding the question of fair wages. The burden of the increased rate should however, not be such as to drive the employer out of business. In other words, it should be in a position to absorb the increase.

7. The wage scales, systematic classification of workmen and the regular incremental scales were provided to the petitioner's workmen for the first time by the award made in Ref. (IT) No. 65 of 1962 on 31.10.1963 (published in the Gujarat Government Gazette 1963 Part-I L at p. 395) between Alembic Glass Industries Ltd., Baroda i.e. the petitioner and its workmen. Thereafter, in REf. (IT) No. 148 of 1974 award was made on 11.3.1976 in respect of the demands of the petitioner's employees referred to the Tribunal by the order dated 19.8.1974. From that award it appears that on behalf of the Union, reliance was sought to be placed on the wage scales obtaining in the Alembic Chemicals, as given by the award made in Ref. (IT) No. 136 of 1971 between the Alembic Chemical Works Co.Ltd. and its workmen and a common award made in another reference (IT) No. 153 of 1972 between the same parties. The petitioner company

was at one time a sister concern of Alembic Chemical Works Co.Ltd. The petitioner company was in a sound financial shape as can be seen from the following narration in the previous award of the President of the Tribunal Mr.Justice M.U.Shah:

"It (i.e. the petitioner company) was first established in the year 1945 when it used to manufacture bottles by crude methods such as mouth blowing and its production was small. In the year 1949, it imported a complete automatic glass plant and two more such automatic plants have been added since then. It manufactures bottles of various types, penicillin phials, refined glass crockeries and other glass materials. It is one of the very few concerns in India with automatic plants. The company has made rapid strides. As appears from 28th Annual Report (1972), the company has solved the problem often encountered in development economies by close knit and continuous coordination between the team of technicians from Alembic Glass and the young team of designers at Shreno. The company's new automatic 6 IS machine turns out 6000 tons of bottles annually. The company's products have captured a good market and, as appears from the various annual reports from the years 1964 to 1973, (20th Annual Report to 29th Annual Report), (Exs. 5(2) (1) to 5(2) (10), the company has achieved a great distinction as a glass industry and is a prosperous company with a good future. In recognition of the pioneering work done by the company in the field of glass technology and industry, the Indian Ceramic Society had presented a plaque of honour to Shri Ramanbhai B. Amin, Chairman of the Board of Directors, in the year 1970, as appears from the 26th Annual report of the company. The statement of the financial position of the company from the years 1963 to 1973, produced by the Union at Ex. 6(1) in this reference, shows the growing prosperity of the company. The sales of the company have steadily increased from the year 1966 to 1972, when in the latter year the sales rose to 670 lakhs, as compared with those of 379 lakhs in the year 1967 and 665 lakhs in 1973. The gross profits have also increased to 179 lakhs in the year 1971 although there is a slight fall in the year 1972 bringing the gross profit to 162 lakhs and a further fall in the year 1973 when the gross profits have come to 113 lakhs.

The depreciation is of 40 lakhs in the year 1973. The dividend declared has risen from 9 in the year 1965 to 23 in the year 1970 and the same rate is maintained till the year 1973. The remarks column shows that in the year 1965 right share issued, 1 share for 3 shares; that in the year 1966 bonus shares were issued, one for two; that in the year 1970 on the increased capital issue of bonus, share one for two and in the year 1972 gratuity provision was included in the wages. Paid up capital comes to 192 lakhs; reserves to 185 lakhs and the gross block to 624 lakhs. The statement at Ex. 6(2) shows that the company has a fixed asset of 623.81 lakhs. The company is thus in a sound financial position".

7.1 As regards its future prospects, it was observed as under:-

"Besides being in a sound financial position at present, the company appears to have reasonably bright prospects in the future and is likely to develop the industry and flourish. The company has filed the statement showing the financial burden per year if the classification and revision of wages are granted in full as per the demand. But, I am inclined to grant the demands to an extent, and in that case there will be a comparatively smaller burden which can be easily borne by the company, having regard to its sound financial condition as discussed above."

7.2 Admittedly, there was no other comparable concern in the glass industry in that region. While arriving at the revised scale for the first group the Tribunal in that previous award took into consideration the revised wage scales of the workers in Group I and in other groups in the Alembic chemicals which was its sister concern and situated in the same compound. This is clear from the following:-

"There does not appear to be any dispute that the pay scales require to be revised. The dispute centres round the extent of the revision. The revised pay-scales in the Alembic Chemical Works Co.Ltd., Baroda, by the award made in Reference (IT) No. 136 of 1971 and Reference (IT) No. 153 of 1972 on 15.5.1974, (1974, Gujarat Government Gazette, Part I-L, p. 1772) with effect from

1.1.1973 which are set out in statement (Ex.7), have also to be taken into account for the purpose. Taking into consideration the revised wage scales of the workers in Group I and in other groups in the Alembic Chemicals which is a sister concern and situated in the same compound and given with effect from 1.1.1973 and the time lag between that period and the present period, the present demand of revision of the pay scales of the workman falling in Group-I should be reasonably met by fixing their pay-scale at Rs. 1.50-0.07-1.64-0.08-2.12-0.10-2.92 (1.50 to 2.92) which appears to be reasonable and just. I have arrived at this revised scale for the first group after consideration of the various formulaes suggested by the Union and the company and, in my opinion, this is a just and proper solution."

7.3 In fact both the sides had consented to awarding higher pay-scale for certain categories of workmen having regard to the pay-scales of those categories of employees then obtaining in the Alembic Chemicals. This is evident from the following excerpt from the earlier award:-

"I have awarded the higher terminating pay-scale for peons and perawalas and for jamadars, having regard to the pay scales of these categories of employees as now obtaining in the Alembic Chemicals Works Co.Ltd., Baroda, which is a sister concern, and this is with the consent of Shri Patel and Shri Shukla. They have stated before me that some of the peons and perawalas and some of the jamadars in both the sister concerns fall substantially in one establishment and therefore, in order to maintain uniformity, the terminating pay scale should be at a higher amount."

8. In the present reference also, before the Tribunal there was no dispute that the wages deserved to be revised, as mentioned by the Tribunal in paragraph 12 of the impugned award. The Tribunal considered the financial position of the petitioner in great detail and while observing, on the basis of the data, that `it was not a happy one', it however held, on the basis of the figures worked out in statement Ex.33 submitted by the petitioner showing the additional burden that would arise if wage revision was made on the lines of the revision in Alembic Chemicals in the award in Ref. I.T No. 434 of 1938 by the same Tribunal, that this was a fit case for

revision of wages. The Tribunal took note of the fact that the wage scales as well as D.A paid in Alembic Glass were more or less on the pattern of those prevailing in the textile industry Ahmedabad and further that the wage structure prevailing in the Alembic Glass was more or less the same as in Alembic Chemicals of which Alembic Glass was formerly a part and after its separation a sister concern. The wages were more or less the same in both the companies before they were revised in Alembic Chemicals by the same Tribunal in I.T No. 434/1978 as noted by the Tribunal. The Tribunal also took note of the fact that there was no comparable concern in the region and keeping in view the principles laid down by the Supreme Court in the Express Newspaper Ltd. (supra) French Motor Car Company Ltd. vs. Their Workmen (1962) II LLJ 744, and, Hindustan Antibiotics Ltd. and Their Workmen - (1967) I LLJ 114, held: "as far as the Alembic Glass is concerned, so far, it had been compared with the Alembic Chemicals and the wage scales and D.As have been paid on the lines of the Alembic Chemicals. It would therefore be just and proper in this case to keep in mind the wage scales etc. prevailing at present in Alembic Chemicals for the purpose of deciding the question involved herein", (See para 10 of the award). We see no infirmity in this approach of the Tribunal. The historical parity between the rates of wages of workmen of the sister concern of the petitioner operating in the same region was undoubtedly a relevant factor to be taken into account for fixing the quantum of fair wages at the time of revision.

9. The financial position of the petitioner though `not a happy one' particularly on the basis of its net profit in 1982 cannot be said to be such as would have justified no wage revision. The chart referred to in para 7 of the award about its financial position between 1974 and 1981 (both inclusive) shows that bonus shares were issued by the company in 1974 raising its share capital to Rs. 192.59 lakhs from 118.08 lakhs and again in 1975 raising it to Rs. 256.78 from Rs. 182.27 lakhs. The chart produced by the company referred in para 8 of the award shows consistent increase in its sales from Rs. 640.53 lakhs in 1971 to 1818.08 lakhs in 1982, which shows that the business had increased considerably. There has not been any loss in any of these years and dividend was consistently paid till 1981 at the rate of 10 per cent even after issuance of the bonus shares. The extent of wage rise adopted by the Tribunal can in no way be said to be so high as to drive the industry out of business. In fact on several counts the demands have been rejected and the increase awarded after a lapse of

about 8 years was eminently justified even for only keeping the fair wages at the same level as they were granted under the earlier award keeping in view the erosion of the purchasing power of money over the period of time that had elapsed. The increase in wages will be making some dent in the profits of the company, but being on expenditure side they would also reduce the corresponding tax incidence thereby reducing the additional burden to the extent by which the tax liability stands reduced due to increased expenditure. Thus, the additional wage burden will not be the full amount of wage rise but that amount minus the reduced tax liability.

10. The Tribunal has, in our view, awarded the revision of wages for cogent reasons and acted in lawful exercise of its jurisdiction warranting no interference by this Court. The petition therefore deserves to be rejected.

11. It appears that when the petition was admitted, there was an interim relief granted against payment of the arrears under the award in favour of the petitioner. The award has otherwise been implemented from 1.9.1983 as stated by the learned Counsel. The question therefore arose as to whether since the stay is now being lifted because of the petition failing, the benefit that the petitioner has got by not paying the arrears should be allowed to be retained by the petitioner. There can be no dispute that by virtue of the interim order that has been operating, the petitioner was in a position to retain the amount of arrears, which otherwise was payable under the award. The petitioner was liable to make all the payments under the award, since the award is being upheld. It therefore follows that on the amount of arrears which the petitioner has not paid by virtue of the interim stay, the petitioner should pay interest. Having regard to the financial position of the petitioner and all the attended circumstances, we are of the view that the amount so retained by the petitioner should be paid with interest at the rate of ten per cent per annum, from the date when the interim relief was granted, till the date of actual payment of such arrears.

12. The petition is therefore rejected. The interim relief stands vacated. Rule is discharged with no order as to costs. The request for extending the interim relief made by the petitioner's learned Counsel is rejected. It is directed that interest will be payable at the rate of ten per cent per annum by the petitioner

to the concerned workmen on the amount of arrears payable under the impugned award, which have not been paid due to the interim relief operating during the pendency of this petition, from the date when the interim relief was granted, till the date of the actual payment of such arrears.

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